

RAIL SAFETY SUMMARY POINTS

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- PHMSA's authority to define tank car standards following collaboration with the AAR provides market certainty for industry. The standards insure that no bad player in the industry has the opportunity to secure market advantage by using equipment that has not met the safety standards ultimately defined by regulators. These regulations provide a level playing field and the certainty industry needs to plan for long-term investments in equipment.
- The DOT-111 tank car has been known by regulators and industry since 1991 to have safety-related construction defects that make them prone to puncture in derailments/accidents. Nothing was done for over two decades. If improved standards had been defined earlier and industry had been making a gradual transition, this problem of balancing the need to foster U.S. energy independence and public safety would not now exist.
- With the upsurge in crude oil, ethanol, and petroleum mixes being transported by rail, we have seen an increase in the number of catastrophic accidents involving these tank cars that have caused deaths and massive destruction. With the flexibility provided by rail and the reality that it is difficult to secure approvals for new pipeline, it is highly unlikely that the rail transport of these combustible hazmat commodities will diminish or cease, so it's vital to address the DOT-111 problem – both for new cars being built and the existing “legacy” fleet of tank cars that have an average additional lifespan of 30-plus years.
- Right now, all sectors of the crude industry are acting to limit their own liability involving these tank cars, but their efforts are scatter-shot with some looking to go beyond the 2011 AAR consensus standards, railroads charging rate premiums for use of DOT-111's, and producers and refineries phasing out use of legacy DOT-111's by their suppliers within varying time frames. Without regulatory clarity, there is the possibility that these efforts will be costly, may perpetuate something less than a state-of-the-art solution for the DOT-111 tank car problem, and will include combustible hazmat commodities beyond crude.
- Rather than starting from the proposition that nothing can be done about the DOT-111 for years to come, TRAC and its municipal partners are urging federal regulators to start from a perspective of urgency and then identify the challenges that must be overcome to jumpstart efforts. If Congressional action is needed to provide policy direction or create incentives for industry to act with appropriate speed, we would support that.
- As Lac-Megantic has shown, a worst case derailment has the potential for profound repercussions – not only were 47 people killed, but we were told by the local town council when we visited in December 2013 that environmental remediation and rebuilding costs will amount to \$1.5 to \$2 billion in a small town of 6000 people. That level of damage (that doesn't include any damages yet to be paid in the civil suits) could bankrupt even a Class I railroad possessing the maximum \$1.5 billion in liability coverage, let alone the many smaller short lines that haul these commodities from origination to final destination in partnership with the Class I's. This is a profound threat to the growth in energy independence.

Requests:

1. Do whatever necessary to get PHMSA to accelerate its timetable – now projected at 2015 -- for new standards and insure that retrofit/service use standards protect public safety in the **very near term**.
2. Work with the tank car manufacturing and maintenance industry to determine what issues could impede the retrofit of the existing fleet of DOT-111 tank cars, and craft incentives (to the extent necessary) conforming with the goals of the ALERRT Act of 2014 that could address those challenges, potentially including:
 - Accelerated depreciation.
 - Tax credits for a retrofit program that expire at a date certain.
 - Addressing any labor or training related issues as a means of spurring private sector job creation.
 - Reworking the RRIF program to make these loans available to tank car owners/lessors for tank car retrofits.
3. Involve shippers, refineries, railroads, tank car manufacturers and leasing companies in examining ways to address the liability issue to insure that taxpayers do not pay costs associated with a catastrophic accident due to gaps in liability coverage by the short line railroads and others.